

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Civil Action No.: 05-10448-GAO

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JOANNE M. ROYER,	)
	)
Plaintiff,	)
	)
v.	)
	)
BLUE CROSS BLUE SHIELD	)
OF MASSACHUSETTS, INC., et al.	)
	)
Defendants.	)

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**BLUE CROSS'S MOTION TO DISMISS**

Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), Defendants Blue Cross and Blue Shield of Massachusetts, Inc. and Blue Cross and Blue Shield of Massachusetts, Inc. Omnibus Welfare Benefit Plan (jointly, "Blue Cross") move to dismiss Count V in the Second Amended Complaint ("Complaint") filed by plaintiff JoAnne Royer ("Royer"). In Count V, Ms. Royer asserts a claim for sanctions under the Health Insurance Portability and Accountability Act ("HIPAA"). HIPAA does not create or imply a private right of action. Therefore, this Court lacks subject matter jurisdiction over Count V and Count V fails to state a claim upon which relief may be granted.

Blue Cross relies on its supporting memorandum, filed herewith.

Wherefore, the Court should grant Blue Cross's motion to dismiss.

BLUE CROSS REQUESTS ORAL ARGUMENT ON ITS MOTION.

By Their Attorneys,

/s/ Joseph Halpern

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